

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1253 Session of  
2018

INTRODUCED BY GREENLEAF, HUGHES AND COSTA, SEPTEMBER 12, 2018

REFERRED TO JUDICIARY, SEPTEMBER 12, 2018

AN ACT

1 Amending Title 61 (Prisons and Parole) of the Pennsylvania  
2 Consolidated Statutes, in Pennsylvania Board of Probation and  
3 Parole, further providing for parole power.

4 The General Assembly of the Commonwealth of Pennsylvania  
5 hereby enacts as follows:

6 Section 1. Section 6137(a), (e) and (k) of Title 61 of the  
7 Pennsylvania Consolidated Statutes are amended to read:

8 § 6137. Parole power.

9 (a) General criteria for parole.--

10 (1) The board may parole subject to consideration of  
11 guidelines established under 42 Pa.C.S. § 2154.5 (relating to  
12 adoption of guidelines for parole) and may release on parole  
13 any inmate to whom the power to parole is granted to the  
14 board by this chapter, except an inmate condemned to death or  
15 serving life imprisonment, whenever in its opinion:

16 (i) The best interests of the inmate justify or  
17 require that the inmate be paroled.

18 (ii) It does not appear that the interests of the  
19 Commonwealth will be injured by the inmate's parole.

1           (1.1) The board shall provide expedited review of every  
2 case where the department has reported that the inmate being  
3 considered for parole:

4           (i) has a serious or terminal illness;

5           (ii) is receiving treatment or hospice care; and

6           (iii) presents a minimal risk of reoffending, based  
7 on the department's standardized needs and risk  
8 assessment of the inmate.

9           (1.2) Government agencies shall assist the board and the  
10 department in developing a plan to house and treat any inmate  
11 the department has identified as suffering from a serious or  
12 terminal illness.

13           (1.3) Nothing in paragraphs (1.1) or (1.2) shall be  
14 construed to entitle any inmate to be paroled or to establish  
15 a presumption that an inmate is entitled to be paroled.

16           (2) Parole shall be subject in every instance to the  
17 Commonwealth's right to immediately retake and hold in  
18 custody without further proceedings any parolee charged after  
19 his parole with an additional offense until a determination  
20 can be made whether to continue his parole status.

21           (3) The power to parole granted under this section to  
22 the board may not be exercised in the board's discretion at  
23 any time before, but only after, the expiration of the  
24 minimum term of imprisonment fixed by the court in its  
25 sentence or by the Board of Pardons in a sentence which has  
26 been reduced by commutation.

27           (3.1) (i) Following the expiration of the inmate's  
28 minimum term of imprisonment, if the primary reason for  
29 not paroling the inmate is the inmate's inability to  
30 access and complete prescribed programming within the

1 correctional institution, the board may release the  
2 inmate on parole with the condition that the inmate  
3 complete the prescribed programming while on parole.

4 (ii) This paragraph shall not apply to offenders who  
5 are currently serving a term of imprisonment for a crime  
6 of violence as defined in 42 Pa.C.S. § 9714 (relating to  
7 sentences for second and subsequent offenses) or for a  
8 crime requiring registration under 42 Pa.C.S. Ch. 97  
9 Subch. H (relating to registration of sexual offenders).

10 (iii) For those inmates to whom subparagraph (ii) is  
11 applicable, the board may release the inmate on parole if  
12 the inmate is subject to another jurisdiction's detainer,  
13 warrant or equivalent writ.

14 (iv) The board may waive the requirements of  
15 subparagraph (ii) for any inmate identified by the  
16 department as:

17 (A) having a serious or terminal illness;

18 (B) receiving treatment or hospice care; and

19 (C) presenting a minimal risk of reoffending,

20 based on the department's standardized needs and risk  
21 assessment of the inmate.

22 (4) Unless the inmate has served at least one year in a  
23 community corrections center or community corrections  
24 facility, the board shall not act upon an application of an  
25 inmate who is granted clemency by the Governor, is subject to  
26 parole supervision and:

27 (i) whose term of imprisonment was commuted from  
28 life to life on parole;

29 (ii) who was serving a term of imprisonment for a  
30 crime of violence; or

1 (iii) who is serving a sentence under 42 Pa.C.S. §  
2 9712 (relating to sentences for offenses committed with  
3 firearms).

4 (5) Upon parole, a parolee subject to paragraph (4)  
5 shall:

6 (i) be subject to weekly supervision for the first  
7 six months of parole; and

8 (ii) have any violations of a condition of parole  
9 immediately made known to the Board of Pardons. This  
10 subparagraph shall apply to all parolees under  
11 supervision by other jurisdictions under Subchapter B of  
12 Chapter 71 (relating to interstate compact for the  
13 supervision of adult offenders).

14 \* \* \*

15 (e) Drug screening tests.--

16 (1) The board may not release a person on parole unless  
17 the person achieves a negative result within 45 days prior to  
18 the date of release in a screening test approved by the  
19 Department of Health for the detection of the presence of  
20 controlled substances or designer drugs under the act of  
21 April 14, 1972 (P.L.233, No.64), known as The Controlled  
22 Substance, Drug, Device and Cosmetic Act.

23 (2) The cost of these preparole drug screening tests for  
24 inmates subject to the parole release jurisdiction of the  
25 board, whether confined in a correctional institution or  
26 county prison, shall be paid by the board. The board shall  
27 establish rules and regulations for the payment of these  
28 costs and may limit the types and cost of these screening  
29 tests that would be subject to payment by the board.

30 (3) (i) The board shall establish, as a condition of

1 continued parole for a parolee who, as an inmate, tested  
2 positive for the presence of a controlled substance or a  
3 designer drug or who was paroled from a sentence arising  
4 from a conviction under The Controlled Substance, Drug,  
5 Device and Cosmetic Act or from a drug-related crime, the  
6 parolee's achievement of negative results in such  
7 screening tests randomly applied.

8 (ii) The random screening tests shall be performed  
9 at the discretion of the board, and the parolee  
10 undergoing the tests shall be responsible for the costs  
11 of the tests.

12 (iii) The funds collected for the tests shall be  
13 applied against the contract for such testing.

14 (4) For a parolee who was not paroled from a sentence  
15 arising from a conviction under The Controlled Substance,  
16 Drug, Device and Cosmetic Act or from a drug-related crime,  
17 the board may establish, as a condition of parole, that the  
18 parolee achieve negative results in screening tests randomly  
19 conducted. The parolee shall be responsible for testing  
20 costs.

21 (5) The board may waive the requirements of this  
22 subsection for any inmate identified by the department as:

23 (i) having a serious or terminal illness;

24 (ii) receiving treatment or hospice care; and

25 (iii) presenting a minimal risk of reoffending,

26 based on the department's standardized needs and risk  
27 assessment of the inmate.

28 \* \* \*

29 (k) Definitions.--The following words and phrases shall have  
30 the meanings given to them in this subsection unless the context

1 clearly indicates otherwise:

2 "Crime of violence." As defined in 42 Pa.C.S. § 9714(g)  
3 (relating to sentences for second and subsequent offenses).

4 "Eligible offender." As defined in section 4503 (relating to  
5 definitions).

6 "Government agency." A Commonwealth agency, any political  
7 subdivision, or municipal or other local authority, or any  
8 officer or agency of a political subdivision or local authority.

9 "Hospice." A special concept of care designed to provide  
10 comfort and support to a patient with a terminal illness that  
11 addresses all symptoms of a disease, with special emphasis on  
12 controlling pain and discomfort, and the emotional, social and  
13 spiritual impact of the disease on the patient.

14 "Serious illness." A disease process or injury, including  
15 chronic illness, whether due to a physical or cognitive  
16 impairment or mental condition, that requires care and treatment  
17 over a long period of time, is usually not cured and has  
18 progressed to the degree that the inmate meets Department of  
19 Aging criteria for nursing facility clinical eligibility. The  
20 disease process or injury may have existed before incarceration.

21 "Terminal illness." An incurable, irreversible medical  
22 condition in an advanced state that will, in the opinion of the  
23 attending physician to a reasonable degree of medical certainty,  
24 result in death regardless of the continued application of life-  
25 sustaining treatment and has progressed to the degree that the  
26 inmate meets Department of Aging criteria for nursing facility  
27 clinical eligibility.

28 Section 2. This act shall take effect in 60 days.